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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|------------------|
| 09/910,650   | 07/20/2001  | Daryl Hlasny         | TAL/7146.110            | 2629             |
| 7590   | 10/15/2004  |                      | EXAMINER                |                  |
| Timothy A. Long<br>Chernoff, Vilhauer, McClung & Stenzel, LLP<br>1600 ODS Tower<br>601 S.W. Second Avenue<br>Portland, OR 97204-3157 |             |                      | CHEA, PHILIP J          |                  |
|  |             |                      | ART UNIT                | PAPER NUMBER     |
|  |             |                      | 2153                    |                  |
|  |             |                      | DATE MAILED: 10/15/2004 |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/910,650             | HLASNY, DARYL       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Philip J Chea          | 2153                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

#### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 July 2001.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

Claims 1-26 have been examined.

***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 12/31/01 was filed after the mailing date on 1/04/02. The submission is in compliance with the provisions of 37 CFR 1.97.
2. The information disclosure statement (IDS) submitted on 7/28/03 was filed after the mailing date on 1/31/03. The submission is in compliance with the provisions of 37 CFR 1.97.

Accordingly, the information disclosure statements are being considered by the examiner.

***Specification***

3. The disclosure is objected to because of the following informalities:
  - Note page 9, line 23 "identify" is apparently "identity".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3-12, 18-22 rejected under 35 U.S.C. 102(e) as being anticipated by Fanning et al. (U.S. 6,366,907).

As per claim 1, Fanning et al. disclose a method of transferring an object from a source device to a destination device, as claimed, comprising:

- discovering a data processing device communicating with destination device (see column 3, lines 32-35, where discovering is implied from the client already looking to find a data object from a provider server);
- identifying a discovered data processing device that facilitates at least one of a remotely directed search for and transfer of a data object (see column 3, lines 32-35, where provider server = data processing device);
- searching an identified data processing device that is a location of said object as said source device (see column 3, lines 54-67); and
- selecting an identified data processing device as source device (see column 4, lines 6-19, where search parameters can be used to identify certain servers where the object is located); and
- transferring object from source to destination (see column 4, lines 20-24).

As per claim 3 and 4, Fanning et al. further disclose the steps of identifying a device that has the data object, as claimed, comprises steps of:

- transmitting a query to data processing device (see column 6, lines 59-62, where search requests = query);
- including an address of a data processing device responding to query in a list of devices (see column 7, lines 4-13, where IP address = address of data processing device), and
- including in list of devices and address of another device facilitating a data object in response to query (see column 7-13, where list of server descriptions = another device);

As per claim 5, Fanning et al. further disclose the step of searching device for object, as claimed, comprises steps of:

- transmitting a search request including a user specified search parameter to data processing device (see columns 6-7, lines 66-67 and 1-3, where search parameters are object name, quality rating, connection bandwidth); and

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- receiving a response to search request from a data processing device identifying object having relation to search parameter (see column 7, lines 4-5, where data object descriptions = data object).

As per claims 6 and 18, Fanning et al. further disclose displaying to a user an object identifier of data object identified in response (see column 7, lines 4-13, where identifier = object quality rating).

As per claims 7 and 19, Fanning et al. further disclose an object name associated with object having relation to search parameter (see column 7, lines 4-13).

As per claims 8 and 20, Fanning et al. further disclose a unique object identifier associated with data object having a relation to search parameter (see column 7, lines 4-13, where data object fingerprint = unique identifier).

As per claims 9 and 21, Fanning et al. further disclose address of another device which object is located (see column 7, lines 4-13, where list of server descriptions = another device).

As per claim 10, Fanning et al. further disclose the step of selecting an identified data processing device comprises the steps of:

- transmitting availability query to a device that is a location of object (see column 4, lines 25-32, where availability is determined by the scoring mechanism);
- receiving a response to transfer availability query including a measure of availability (see column 4, lines 25-32, where data transfer speed, and reliability of server = measure of availability); and
- selecting a responding device optimizing said measure of availability (see column 4, lines 32-26, where best score = optimized measurement).

As per claims 11 and 22, Fanning et al. further disclose measure of availability comprising measure of data transfer throughput (see column 4, lines 28-32, where data transfer speed = data transfer throughput).

As per claim 12, Fanning et al. further disclose the step of transferring object from source device to destination device comprises the steps of:

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- determining an availability of source device to transfer a data object (see columns 2-3, lines 64-67 and 1-2, where searching = determining);
- transmitting to source device a request to transfer object (see columns 2-3, lines 64-67 and 1-2, where transfer = transmitting); and
- receiving at destination device data of object (see columns 2-3, lines 64-67 and 1-2).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 17, 25, and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. as applied to claim 1 above, and further in view of BLUETOOTH SPECIFICATION Version 1.1.

In considering claims 2 and 17, although the system disclosed by Fanning shows substantial features of the claimed invention (discussed above in claims 2, 3, 5, 10, and 12), it fails to disclose:

- transmitting a paging message over communication channel; and
- including an address of a device responding to paging in a device list.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al., as evidenced by BLUETOOTH SPECIFICATION et al.

In an analogous art, BLUETOOTH SPECIFICATION discloses the file transfer profile between a destination device (client) and a source device (server) for ad hoc networks comprising:

- transmitting a paging message (see page 379 Client interaction, where selecting File Transfer Application displays a list of servers that may support the transfer); and

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- including an address of a device responding to paging message (see page 379 Client interaction, where a connection takes place implying that the address of the source device is provided to the destination device).

Given the teaching of BLUETOOTH SPECIFICATION, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. by employing server selection in an ad hoc network, such as disclosed by BLUETOOTH SPECIFICATION, in order to see devices that are responsive in the network.

Further, in considering claims 25 and 26, Fanning et al. in view of BLUETOOTH SPECIFICATION fails to disclose:

- identifying portion of object not transferred including a measure of quantity of data comprising object; and
- comparing a measure of data received to measure of quantity of object.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION, as evidenced by Fielding et al.

In an analogous art, Fielding et al. discloses a protocol for sending and receiving data from a destination device and a source device comprising:

- identifying portion of object not transferred including a measure of quantity of data comprising object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device); and
- comparing a measure of data received to measure of quantity of object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device). *It is implied that the amount of the file left to download would be known if the range units were used to specify the amount left to download.*

Given the teaching of Fielding et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of BLUETOOTH SPECIFICATION by employing partial file download capability, such as disclosed by Fielding et al., in order to resume a broken download.

In considering claim 26, it is implied that the order of bytes that is sent over using the HTTP/1.1 protocol is in order.

8. Claims 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. as applied to claims 1 and 12 above, and further in view of Kazaa (Kazaa Media Desktop URL:<http://web.archive.org/web/20001201223800/www.kazaa.com/index.php?page=technology>).

As per claim 13, although the system disclosed by Fanning et al. shows substantial features of the claimed invention (discussed above), it fails to disclose:

- receiving a portion of object and an identifier of portion; and
- preserving identifier of portion of data.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al., as evidenced by Kazaa.

In an analogous art, Kazaa discloses a system of transferring an object from a source device to a destination device including a searching means, selecting means, transferring means, and receiving means wherein receiving means comprises steps of:

- receiving a portion of data object (see Intelligent Downloads, paragraph 1, lines 7-8, where dividing into several chunks = receiving a portion of data); and
- preserving said identifier of identifier (see Intelligent Downloads, paragraph 1, lines 7-8, where it is implied that the identifier is preserved so the system knows where to start the next chunk).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. by employing partial downloading,

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such as disclosed by Kazaa, in order to improve download speed and reliability (see Intelligent Downloads, paragraph 1, line 1).

As per claim 14, although the system disclosed by Fanning et al. shows substantial features of the claimed invention (discussed above), it fails to disclose:

- identifying a portion of object not transferred;
- identifying a second source having a second portion of object that has not been transferred; and
- requesting transfer of second object from second source.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al., as evidenced by Kazaa.

Kazaa further discloses:

- identifying a portion of object not transferred to destination device (see Intelligent Downloads, paragraph 2, lines 1-5, where when a download fails in the middle of transmission, a second source is tried);
- identifying a second source having a second portion of object (see Intelligent Downloads, paragraph 2, lines 1-5, where identifying is implied considering the download is attempted from another source); and
- requesting transfer of second portion of object from second source (see Intelligent Downloads, paragraph 2, lines 1-5, where requesting download is implied considering the download is attempted from another source).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. by employing a recovered download attempt from another source, such as disclosed by Kazaa, in order to improve the reliability that the transmission will be completed (see Intelligent Downloads, paragraph 1, line 1).

9. Claims 15 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. in view of Kazaa as applied to claim 14 above, and further in view of Fielding et al. (HTTP/1.1 RFC 2616).

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Although the system disclosed by Fanning et al. in view of Kazaa shows substantial features of the claimed invention (discussed above), it fails to disclose:

- identifying portion of object not transferred including a measure of quantity of data comprising object; and
- comparing a measure of data received to measure of quantity of object.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of Kazaa, as evidenced by Fielding et al.

In an analogous art, Fielding et al. discloses a protocol for sending and receiving data from a destination device and a source device comprising:

- identifying portion of object not transferred including a measure of quantity of data comprising object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device); and
- comparing a measure of data received to measure of quantity of object (see HTTP/1.1 RFC 2616 section 3.12, where range units can be used to specify the amount of data to be transferred to destination device from source device). *It is implied that the amount of the file left to download would be known if the range units were used to specify the amount left to download.*

Given the teaching of Fielding et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of Kazaa by employing partial file download capability, such as disclosed by Fielding et al., in order to resume a broken download.

In considering claim 16, it is implied that the order of bytes that is sent over using the HTTP/1.1 protocol is in order.

10. Claims 23 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Fanning et al. in view of BLUETOOTH SPECIFICATION as applied to claim 17 above, and further in view of Kazaa (Kazaa

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Media Desktop

URL:<http://web.archive.org/web/20001201223800/www.kazaa.com/index.php?page=technology>.

As per claim 23, although the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION shows substantial features of the claimed invention (discussed above), it fails to disclose:

- receiving a portion of object and an identifier of portion; and
- preserving identifier of portion of data.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION, as evidenced by Kazaa.

In an analogous art, Kazaa discloses a system of transferring an object from a source device to a destination device including a searching means, selecting means, transferring means, and receiving means wherein receiving means comprises steps of:

- receiving a portion of data object (see Intelligent Downloads, paragraph 1, lines 7-8, where dividing into several chunks = receiving a portion of data); and
- preserving said identifier of identifier (see Intelligent Downloads, paragraph 1, lines 7-8, where it is implied that the identifier is preserved so the system knows where to start the next chunk).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of BLUETOOTH SPECIFICATION by employing partial downloading, such as disclosed by Kazaa, in order to improve download speed and reliability (see Intelligent Downloads, paragraph 1, line 1).

As per claim 24, although the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION shows substantial features of the claimed invention (discussed above), it fails to disclose:

- identifying a portion of object not transferred;

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- identifying a second source having a second portion of object that has not been transferred; and
- requesting transfer of second object from second source.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Fanning et al. in view of BLUETOOTH SPECIFICATION, as evidenced by Kazaa.

Kazaa further discloses:

- identifying a portion of object not transferred to destination device (see Intelligent Downloads, paragraph 2, lines 1-5, where when a download fails in the middle of transmission, a second source is tried);
- identifying a second source having a second portion of object (see Intelligent Downloads, paragraph 2, lines 1-5, where identifying is implied considering the download is attempted from another source); and
- requesting transfer of second portion of object from second source (see Intelligent Downloads, paragraph 2, lines 1-5, where requesting download is implied considering the download is attempted from another source).

Given the teaching of Kazaa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Fanning et al. in view of BLUETOOTH SPECIFICATION by employing a recovered download attempt from another source, such as disclosed by Kazaa, in order to improve the reliability that the transmission will be completed (see Intelligent Downloads, paragraph 1, line 1).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hill, Thomas Casey et al. US 6470189

Dutta, Rabindranath et al. US 6501421

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Rothschild, Leigh M.

US 6651053

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Chea whose telephone number is 703-605-1202. The examiner can normally be reached on M-F 7:45-4:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip J Chea  
Examiner  
Art Unit 2153

PJC



ZARNI MAUNG  
PRIMARY EXAMINER